

**REMARKS/ARGUMENTS**

Claims 1-41 stand allowed, with claim 43 objected to and claim 42 rejected in the outstanding Official Action. Claims 42 and 43 have been amended and therefore claims 1-43 remain in this application.

The Examiner's notification of acceptance of the originally filed formal drawings is very much appreciated. Similarly, the Examiner's acknowledgment of Applicant's claim for priority and receipt of the certified copies of the priority documents is appreciated. Finally, the Examiner's acknowledgment of consideration of the prior art contained in Applicant's previously submitted Information Disclosure Statement is appreciated.

Claim 42 is objected to in the outstanding Official Action. The Examiner indicates that in claim 42, line 5, it appears that something is missing. Actually, Applicant's review of claim 42 indicates that the word "operate" is extra and the phrase should have terminated with "desired data processing performance level." The above amendment to claim 42 deletes the word "operate."

The Examiner also objects to claim 42 at lines 5-7, correctly pointing out that the existing claim language is a "performance level related to itself." Applicant has amended this language to recite that the desired data processing performance level is linearly related to "a maximum data processing performance level." As can be seen by claim 43 originally dependent from claim 42, the desired data processing level in claim 43 is a more limited construction than independent claim 42 and is directed to a value "equivalent to a binary fraction of **a maximum data processing performance level.**" (emphasis added). Therefore, the slightly broader language of

claim 42 is clearly supported which limits the desired data processing performance level to a value "linearly related to a maximum data processing performance level."

In view of the above amendments, there is believed no further basis for objection to independent claim 42 and any further objection is respectfully traversed.

Claim 42 stands rejected under 35 USC §102 as being anticipated by Cooper (U.S. 2004/0107369). In view of Applicant's amendment to claim 42, there appears to be no disclosure in the Cooper reference which suggests that the desired data processing performance level has a value "linearly related to a maximum data processing performance level" and therefore Cooper fails to anticipate or render obvious the subject matter of claim 42. Any further rejection of claim 42 as currently amended in view of the Cooper reference is respectfully traversed.

The Examiner's notification that claims 1-41 are allowed is very much appreciated. Additionally, the Examiner's indication that claim 43 contains allowable subject matter if rewritten in independent form is also appreciated. Applicant has amended claim 43, rewriting it in independent form incorporating the limitations of claim 42 (with the exception that the objected to language in claim 42, i.e., "a performance level related to itself" has been deleted, since this limitation would appear to be at odds with the limitation in claim 43).

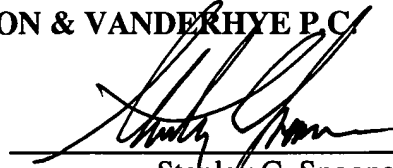
In view of the above, claims 1-43 as amended are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicant's undersigned representative.

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Respectfully submitted,

**NIXON & VANDERHYTE P.C.**

By: \_\_\_\_\_



Stanley C. Spooner  
Reg. No. 27,393

SCS:kmm  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100